

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 8697 WO RO-FRI	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/007260	International filing date (<i>day/month/year</i>) 03.07.2004	Priority date (<i>day/month/year</i>) 29.07.2003	
International Patent Classification (IPC) or national classification and IPC B60K41/22			
Applicant ZF FRIEDRICHSHAFEN AG			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																								
<p>4. This report contains indications relating to the following items:</p> <table> <tbody> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </tbody> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages 1-8 as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

the claims:
 nos. 1-12 as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* _____ received by this Authority on _____
 nos.* _____ received by this Authority on _____

the drawings:
 sheets 1/1 as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims	<u>2, 4–6, 8, 9, 11</u>	YES
	Claims	<u>1, 3, 7, 10, 12</u>	NO
Inventive step (IS)	Claims	<u>2, 4–6, 8, 9, 11</u>	YES
	Claims	<u>1, 3, 7, 10, 12</u>	NO
Industrial applicability (IA)	Claims	<u>1–12</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1. This report makes reference to the following document:

D1: EP0312018 A (CSEPELI AUTOGYAR) 19 April 1989
(1989-04-19)

2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1, 3, 7, 10 and 12 lacks novelty (PCT Article 33(2)).

1. Regarding claim 1, D1 discloses (the references between parentheses refer to that document):

a method for controlling an actuator (column 3, lines 11–15) of a starting clutch (15) of an automatic gearbox (2) of a motor vehicle, in which the actuator is controlled by a control device (8) such that the starting clutch is engaged when there is an intention to start and a step-up transmission ratio has been set, and is released to complete the starting operation, the starting

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clutch being driven during a starting operation by triggering the actuator such that the torque transmitted thereby periodically fluctuates (column 6, lines 33-54, implicit).

Claim 1 thus lacks novelty.

2. Regarding claim 3, D1 indicates that in order to determine the periodical actuation of the clutch actuator, the vehicle speed, the vehicle mass, the radius of the vehicle wheels, the ground adhesion of the vehicle wheels and/or the forces that act on the vehicle during rocking counter to the direction of movement and that are influenced by the obstacle in the path of the vehicle are taken into consideration (column 3, lines 30-41, column 4, lines 49-53).
3. Regarding claim 7, D1 indicates that the periodical operation is implemented when the control device ascertains that an actuating element (4) for activating the periodical operation has been actuated by a vehicle occupant (column 6, lines 17-23).
4. Regarding claim 10, D1 indicates that the accelerator pedal of the motor vehicle is used as actuating element (column 6, lines 33-54).
5. Regarding claim 12, D1 indicates that the

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method is used to control an automatic gearbox (2).

3. It would appear from page 5 of the description that the following features are essential to the definition of the invention:

- (1) the step-up transmission ratio remains unaltered.
- (2) the vehicle may fully surmount the obstacle.

Since independent claim 1 does not contain these features, it does not meet the requirement of PCT Article 6 in conjunction with PCT Rule 6.3(b) that each independent claim must include all the technical features essential to the definition of the invention.